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Category:	Workforce Investment Act
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Contact:	Director of Employment and Training Programs
Distribution:	Workforce Investment Board Chairs, One Stop Directors, and Employment and Training Staff
Colorado One-Stop System Policy Guidance Letter#:	01-08-WIA1
Date:	March 21, 2001

### **I. REFERENCE (S):**

Workforce Investment Act (WIA) of 1998 (Public Law 105-220), August 7, 1998, Sections 101, 181, 188, 195; and the Final Rule, 20 CFR 652 et al.: Part 663, Subparts C – G and Part 667, Subpart B.

### **II. PURPOSE:**

To facilitate the development of local policies and procedures for administering On-the-Job Training (OJT) and Customized Training (CT) for Adults and Dislocated Workers (DWs).

### **III. BACKGROUND:**

Under the Workforce Investment Act (WIA), Adults and DWs can access a continuum of services based on their individual level of need. These services are offered through the One Stop Delivery System under a three-tiered approach. Customers who have been enrolled in Tier I Core and Tier II Intensive Services and have been unsuccessful in obtaining or retaining employment and/or were not earning a self-sufficient wage are eligible to receive Tier III Training Services.

For those individuals who would benefit from participating in training provided by an employer(s), Section 134 (d)(4)(D) of the Act identifies On-the-Job Training (OJT) and Customized (CT) as

allowable training activities.

#### **IV. POLICY GUIDANCE:**

##### **A. Definitions:**

Per the WIA Section 101, OJT and CT activities are defined as follows:

*(31) On-the-Job Training means training by an employer that is provided to a paid participant while engaged in productive work in a job that-*

- A. provides knowledge or skills essential to the full and adequate performance of the job;*
- B. provides reimbursement to the employer of up to 50% of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and*
- C. is limited in duration, as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.*

*(8) Customized Training means training-*

- (A) that is designed to meet the special requirements of an employer (including a group of employers);*
- (B) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and*
- (C) for which the employer pays for not less than 50% of the cost of training.*

##### **B. General Requirements:**

Local Workforce Boards (LWFBs) are responsible for establishing OJT and CT policy and procedures that comply with the WIA Law and the Final Rule, and State Policy Guidance Letters (PGLs).

Local policies will need to identify the methodology used to determine the processes and procedures for the following:

##### **1. On-the-Job Training (OJT)**

- selecting the length of training for each OJT;  
under what circumstances a less than full-time OJT would be employed;
- the percentage rate used for reimbursement to the employer for the extraordinary costs of training (not to exceed 50% of the wage rate);
- corrective action interventions to be used when on-site deficiencies or situations are noted;
- what constitutes an employer “exhibiting a pattern of failure”; and,
- the pre-award review process.

For employed workers, this policy will need to define the criteria used to determine:

- when an eligible employed worker who is not earning a self-sufficient wage is eligible for an OJT;
- what meets the requirements in Sec. 663.700 and 663.705; and,
- other appropriate purposes to write an OJT contract.

## **2. Customized Training (CT)**

- the length of training required for each customized training;
- the costs the employer(s) pays for customized training (not less than 50% of the training costs); and,
- what constitutes "successful completion" of training.

For employed workers, this policy will need to define the criteria used to determine:

- when an employee is not earning a self-sufficient wage and is therefore eligible for customized training;
- what meets the requirements in Section 663.715 and Section 663.705 (c);
- other appropriate purposes for customized training contracts; and,
- the definition for "successful completion" of training.

OJT and CT providers will not be subject to the eligible training provider requirements set forth in the State Plan, per Section 122 (h) of the WIA. The State encourages Local Workforce Boards to collect performance information for use as a management tool when reviewing the performance of OJT and CT providers. This performance information may include the following:

- number of trainees by industry/occupation;
- percentage of trainees who completed the program;
- percentage of trainees hired/retained after completing program;
- percentage of trainees who retained employment six months after completing program vs percentage of all exiters retaining unsubsidized employment six months after exiting;
- trainee wages six months after placement vs wages of exiters six months after exiting into unsubsidized employment;
- measure of skill attainment of program graduates/hires; and,
- costs per trainee.

## **C. Contracts:**

### **1. On-the-Job Training (OJT)**

OJT is provided for through a contract with a public, private non-profit, or private sector employer.

This contract must:

- identify the occupation, skills and competencies to be learned;
- the length of training time provided;
- the percentage rate used for reimbursement to the employer for the extraordinary costs of training (not to exceed 50% of the wage rate); and,
- contain assurances that training will be in accordance with: WIA Section 181(a)(1)(A) and 181 (a) (2), 188; and, the Final Rule Sections 667.266, 667.268, 667.270, 667.272, 667.274(a), and 667.275.

## **2. Customized Training (CT)**

CT is provided for through a contract with a public, private non-profit, or private sector employer(s). It is recommended that this type of contract:

- detail the skills and competencies to be learned;
- specify the length of training time to be provided;
- define what constitutes successful completion of training;
- identify the employer(s) cost for training (not less than 50% of the cost of the training); and,
- contain assurances that training will be in accordance with: WIA Section 181(a)(1)(A) and 181 (a) (2), 188; and, the Final Rule Sections 667.266, 667.268, 667.270, 667.272, 667.274(a), and 667.275.

## **D. Monitoring:**

The Final Rule, Section 667.400, identifies the need for annual program monitoring. Local Workforce Boards and subrecipients (if applicable) will need to establish local monitoring policies and procedures for OJT and CT providers. These policies and procedures should include:

- monitoring of OJT and CT providers for performance and contract compliance; and,
- validation of skill and competency attainment.

## **E. Employer Restrictions:**

### **1. Employer Pattern of Failure**

An OJT contract may not be written with an employer who has previously demonstrated a “pattern of failure”, as defined by the local workforce board and the Final Rule Section 663.700 (b). Such failure may include failing to provide participants with continued employment and wages, benefits, and working conditions that are equal to those

provided to regular employees who have worked a similar length of time and are doing the same type of work.

### **2. Relocation**

An OJT or CT contract may not be written until 120 days after the commencement of operations of any relocating establishment, if the relocation resulted in the loss of employment for any employee at the original location. To verify that an establishment which is new or expanding, has not relocated employment from another area, a standardized pre-award review must be conducted. This pre-award review must be conducted jointly by the local area with the establishment as a prerequisite to WIA assistance.

### **3. Pre-Award Review**

The pre-award review must include:

- names under which the establishment does business, including predecessors and successors in interest;
- the name, title, and address of the company official certifying the information; and,
- whether WIA assistance is sought in connection with past or impending job losses at other facilities, including a review of whether WARN notices relating to the employer have been filed.

The pre-award may include:

- additional information specified by the LWFB; and,
- consultations with labor organizations and others in the affected local area(s).

## **V. IMPLEMENTATION DATE:**

Upon receipt.

## **VI. INQUIRIES:**

Questions regarding this PGL should be directed to your Program Support Representative at the Colorado Department of Labor and Employment.

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Robert D. Hale, Director  
Division of Employment & Training